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SUPREME COURT OF THE UNITED STATES

October Term, 1958.

No. 669

CHARLES L. THOMAS, ET AL., - - Petitioners,

versus

BROADWAY BAPTIST CHURCH,
a Corporation, - - - - - - - - Respondent.

BRIEF OPPOSING PETITION FOR CERTIORARI.

JAMES W. STITES,
1212 Kentucky Home Life Building,
Louisville 2, Kentucky,
Counsel for Respondent.

February 6, 1959.

WESTERFIELD-BONTE CO., INCORPORATED, LOUISVILLE, KY.

Supreme Court of the United States.

October Term 1958

No. 669

CHARLES L. THOMAS, ET AL., - - - *Petitioners,*

v.

BROADWAY BAPTIST CHURCH,
a Corporation, - - - - - - *Respondent.*

BRIEF OPPOSING PETITION FOR CERTIORARI.

May it please the Court:

By applying established principles of Kentucky law, the trial court, and the Court of Appeals of Kentucky, decided that the respondent, and those desiring access to respondent's property which abuts the end of a dedicated street, have the right in common with the public generally to use the street as a means of access to respondent's property. No federal question of importance was decided.

The pertinent facts giving rise to this controversy are correctly stated in the various opinions, filed as an appendix to the petition.

The city of Druid Hills (a small suburb of Louisville) was the principal defendant below. It has not joined in this petition. Neither have the individual trustees of the city (who were parties below) joined in

this petition, other than the petitioner Jefferson, who was and is a resident on Olympic Avenue. The petitioners (who call themselves "appellants") include the attorney who has filed this petition. They are simply residents along Olympic Avenue.

Both the lower court and the Court of Appeals of Kentucky held the avenue to be a public, dedicated street. The petitioners, of course, have no standing vicariously to raise constitutional questions applicable to the city alone, and the city is not here complaining.

We gather from the petition that the additional traffic on this public street, which may result from the lawful use of it by the church, is somehow deemed by the petitioners to be a violation of due process as to them. Obviously, the use of a public street by members of the public to whom it was dedicated does not deprive petitioners of any right protected by the due process clause of the Constitution. None of the five reasons relied on (Pet., pp. 10-11) presents a question arising under the due process clause.

Respectfully submitted,

JAMES W. STITES,
1212 Ky. Home Life Bldg.,
Louisville 2, Kentucky,
Counsel for Respondent.

February 6, 1959.